



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 14, 1996

Mr. Gary E. Keane
General Counsel
Dallas/ Fort Worth International Airport
3200 East Airfield Drive
P.O. Drawer 619428
DFW Airport, Texas 75261-9428

OR96-0192

Dear Mr. Keane:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID # 37839.

The Dallas/Fort Worth International Airport Board ("DFW") received a request for access to certain police reports in its possession pertaining to a missing person found at DFW. You have submitted the information contained in Attachments 4 and 5 for review and contend the requested information is excepted from required public disclosure under sections 552.101 and 552.108(a) of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You claim that the documents within Attachment No. 4, the Emergency Medical Report and attachments, are confidential pursuant to §773.091 of the Health and Safety Code as applied through section 552.101 of the Government Code. Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 773.091(b) of the Health and Safety Code provides:

(b) Records of the identity, evaluation, or treatment of a patient by emergency medical services personnel or by a physician providing medical supervision that are created by the emergency medical services personnel or physician or maintained by an emergency medical services provider are confidential and privileged and may not be disclosed except as provided by this chapter.

This confidentiality "does not extend to information regarding the presence, nature of injury or illness, age, sex, occupation, and city of residence of a patient who is receiving emergency medical services." *Id.* § 773.091(g). You state that you have already released this portion of the information. We agree that the EMS reports which are contained in Attachment 4 are excepted from disclosure under section 552.101 of the Government Code in conjunction with section 773.091 of the Health and Safety Code. You must withhold the documents contained within Attachment 4.

Next, DFW seeks to withhold Attachment No. 5 under section 552.108(a). Section 552.108(a) generally applies to records of a law-enforcement agency or prosecutor that deal with the detection, investigation or prosecution of crime. In an open criminal case, section 552.108 exempts from disclosure all information except that normally found on the first page of the offense report. *See generally Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex.Civ.App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex.1976); Open Records Decision No. 127 (1976). Once a case is closed, information may be withheld under section 552.108 only if its release "will unduly interfere with law enforcement or crime prevention." Open Records Decision No. 553 (1990) at 4 (and cases cited therein). A governmental body claiming the "law enforcement" exception must reasonably explain how and why release of the requested information would unduly interfere with law enforcement and crime prevention. Open Records Decision No. 434 (1986) at 2-3.

DFW possesses regulatory, protection and police functions. Transp. Code §22.002(2). Additionally, you indicate that the Federal Bureau of Investigation is currently involved in an ongoing criminal investigation regarding the incident and has requested, pursuant to a telephone call to the DFW's legal Department that DFW withhold these records until such time as their investigation is complete. Therefore, except for front page offense report information, you may withhold the documents contained in Attachment 5 pursuant to section 552.108 until such time as the investigation is no longer active or the prosecution is closed.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Janet I. Monteros
Assistant Attorney General
Open Records Division

JIM/ch

Ref.: ID# 37839

Enclosures: Submitted documents

cc: Mr. Allen Manning
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(w/o enclosures)